

# **GENERATION-SKIPPING IRREVOCABLE LIFE INSURANCE TRUST FOR BENEFIT OF GRANTOR'S CHILDREN AND OTHER DESCENDANTS**

**(Funding: Life Insurance or Split Dollar Life Insurance)**

## **HIGHLIGHTS OF THE PLAN**

This specimen generation-skipping irrevocable life insurance trust is designed to be the owner of a life insurance policy, or a split dollar interest in a policy, that insures the life of the Grantor. The trust may own assets other than life insurance; however, to prevent the Grantor from being taxed on trust income, it is best to leave assets other than life insurance out of the trust until after the death of the Grantor.

After the Grantor's death, the policy proceeds will be paid into this generation-skipping life insurance trust, which is designed to benefit the Grantor's children and descendants throughout their lives. Trust assets can be used to provide for education and medical expenses, support and maintenance expenses, money for home purchases, funding for starting or operating a business, or other family needs. The trust can operate very much like a family bank.

The trust should be used in circumstances where:

1. After the death of the Grantor, the Grantor's children are to be the direct beneficiaries of the trust. (If the Grantor is married, his or her spouse does not participate in the trust.)
2. After the death of the Grantor, the trust assets are to be held, managed, and administered as a separate generation-skipping trust estate, for the benefit and use of the Grantor's children and descendants.

The specimen trust form is intended to be used to create an irrevocable trust which is unfunded except for the life insurance policy, or split dollar interest in a policy, either of which is to be owned by and payable to the trust. Some trustees will also keep a minimum balance bank account in which to deposit contributions by the Grantor and to make policy premium payments. The specimen trust form contemplates that the trust will not have taxable income during the Grantor's lifetime.

The incentive for use of a life insurance trust is the potential for removing life insurance or split dollar policy proceeds from the estate of both the insured and the insured's spouse. In order to help accomplish this, it is recommended that the trust be the original applicant/owner of the life insurance policy. If not, it is certain that there will be a three-year waiting period to keep the policy proceeds out of the insured's estate.

The specimen trust form incorporates Crummey withdrawal provisions in order to qualify contributions to the trust for the gift tax annual exclusion. It is important to note that the specimen trust form utilizes Crummey withdrawal provisions to provide a gift tax exclusion under Internal Revenue Code Section 2503(b) up to the \$5,000 or 5% lapse protection amount under IRC Sections 2514(e) and 2041(b)(2).

By limiting the Crummey power to the lapse protected amount, the beneficiaries will not become Grantors of the trust for transfer or income tax purposes, thus avoiding certain transfer and income tax problems for the beneficiaries. If the trust were to allow beneficiaries with Crummey withdrawal powers to make withdrawals equal to the full gift tax annual exclusion the power could cause gift, estate, and generation-skipping tax issues for the beneficiaries. There are other methods of drafting Crummey withdrawal powers, and Grantor's counsel should be consulted in all cases regarding withdrawal provisions.

The specimen trust illustrates just one method of providing for the Grantor's children; however, the trust provisions must be designed to fit the individual circumstances of each case.